

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ALEX BELL,	)	
	)	Civil Action No. 17 – 117J
Plaintiff,	)	
	)	District Judge Kim R. Gibson
v.	)	Magistrate Judge Lisa Pup Lenihan
	)	
TIMOTHY LITTLE, <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

**MEMORANDUM ORDER**

Plaintiff, Alex Bell, initiated the instant *pro se* prisoner civil rights action on July 5, 2017, and in accordance with the Magistrate Judge’s Act, 28 U.S.C. § 363(b)(1), and Rules 72.C and 72.D of the Local Rules of Court, all pretrial matters were referred to United States Magistrate Judge Lisa Pupo Lenihan.

Plaintiff’s Complaint (ECF No. 4) was served on the Defendants, and Defendant Dr. M.G. Naji, the Medical Director at SCI Houtzdale, filed a Motion to Dismiss the Complaint or, in the alternative Motion for Summary Judgment based on Plaintiff’s failure to exhaust his administrative remedies prior to filing this lawsuit. (ECF No. 27.) On February 20, 2018, the Court ordered that Dr. Naji’s Motion be treated as a Motion for Summary Judgment solely with respect to Plaintiff’s alleged failure to exhaust his administrative remedies. (ECF No. 31.)

On April 24, 2018, the Magistrate Judge issued a Report and Recommendation (“R&R”) recommending that Dr. Naji’s Motion to Dismiss or, in the alternative Motion for Summary Judgment, be granted to the extent that Plaintiff’s Eighth Amendment violation claim alleged

against him be dismissed with prejudice for Plaintiff's failure to exhaust his administrative remedies and that the Motion be granted to the extent that any professional negligence claims asserted against Dr. Naji be dismissed for Plaintiff's failure to file a Certificate of Merit. (ECF No. 40.) Plaintiff was served with the R&R and told that he had until May 11, 2018 to file written objections. However, on May 8, 2018, counsel for Dr. Naji notified the Court that he had received a letter from Plaintiff expressing his desire to not object to the R&R. (ECF No. 41.) Counsel also attached the letter to his notification because it had not yet been docketed with the Court although it indicated that it was CC'd to the Clerk. (ECF No. 41-1.) Despite Plaintiff indicating that he CC'd the letter to the Clerk, the Court never received it. Nevertheless, the time for filing objections has expired. Accordingly, the Court enters the following Order:

And now, this 23<sup>rd</sup> day of May, 2018, the following Order is hereby entered:

**IT IS HEREBY ORDERED** that the Report and Recommendation of the Magistrate Judge (ECF No. 40) is adopted as the Opinion of the Court.

**IT IS FURTHER ORDERED** that the Motion to Dismiss or, in the alternative, Motion for Summary Judgment filed by Defendant Dr. M.G. Naji (ECF No. 27) be granted for the reasons specified in the R&R.

**IT IS FURTHER ORDERED** that the Clerk of Court shall terminate Defendant Dr. M.G. Naji from this action.

**AND IT IS FURTHER ORDERED** that this case is remanded back to the Magistrate Judge for all further pretrial proceedings.

By the Court:

A handwritten signature in black ink, appearing to read 'Kim R. Gibson', is written over a horizontal line.

Kim R. Gibson

United States District Judge

Cc: Alex Bell  
MJ-5004  
SCI Houtzdale  
P.O. Box 1000  
Houtzdale, PA 16698-1000

Counsel for Defendants  
(Via CM/ECF electronic mail)